

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-1-10

WHEREAS, **B & F MARINE, INC.** applied to Community Zoning Appeals Board 12 for the following:

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a proposed eleven (11) story building setback 20' (39' required) from the front (north and south) property lines setback a minimum of 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 49.9% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.35 maximum permitted).

REQUESTS #2-#4 ON PLAN "A"

- (5) Applicant is requesting to permit a proposed eight (8) story building setback 20' (33.2' required) from the front (north and south) property lines setback a minimum of 15' (33.2' required) from the side street (west) property line.
- (6) Applicant is requesting to permit a lot coverage of 50.2% (40% maximum permitted).
- (7) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.17 maximum permitted).

REQUESTS #5-#7 ON PLAN "B"

AND WITH EITHER GROUP OF REQUESTS, THE FOLLOWING:

- (8) Applicant is requesting to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2-#7 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and approval of requests #2-#8 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08 and "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'B'," as prepared by

Tapia-Ruano Architect, Inc., consisting of 16 sheets and dated stamped received 12/1/08. Plans may be modified at public hearing.

SUBJECT PROPERTY: The west 112' of Tract 2, of AMENDED PLAT OF BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19, less the north 15' and less all that part of Tract 2 which lies within the external area formed by a 25' radius arc concave to the southeast tangent of the west line of said Tract 2, and tangent to the south line of the north 15' of said Tract 2. **AND: PARCEL 1:** All of QUECK SUBDIVISION (A resubdivision of the south 110' of the east 100' of Tract 2, of the AMENDED PLAT OF BIRD ROAD ESTATES, SECTION 2, Plat book 33, Page 19), Plat book 66, Page 85, being the same property described in the warranty deed recorded under Clerk's File No. 77R-279948 in Official Records Book 9855, Page 1509. **AND: PARCEL 2:** The east 50' of the west 162' of the south 110' of Tract Two, of BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19. **AND PARCEL 3:** The east 50' of the west 212' of the south 110' of Tract 2, of BIRD ROAD ESTATES AMENDED, SECTION TWO, Plat book 33, Page 19.

LOCATION: Lying east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and , and at which time the applicant proffered two Declaration of Restrictions, and

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 12 the requested district boundary change to BU-2 (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requests to permit a proposed eleven (11) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #2), to permit a lot coverage of 49.9% (Item #3), to permit a floor area ratio (F.A.R.) of 1.50 (Item #4), to permit a proposed eight (8) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #5), to permit a lot coverage of 50.2% (Item #6), to permit a floor area ratio (F.A.R.) of

1.50 (Item #7), and to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property (Item #8) would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance and said application was denied by Resolution No. CZAB12-15-09, and

WHEREAS, **B and F MARINE, INC.** appealed the decision of Community Zoning Appeals Board 12 to the Board of County Commissioners for the following:

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a proposed eleven story building setback 20' (39' required) from the front (north and south) property lines and setback a minimum of 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 49.9% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.35 maximum permitted).

REQUESTS #2-#4 ON PLAN "A", OR IN THE ALTERNATIVE:

- (5) Applicant is requesting to permit a proposed eight story building setback 20' (33.2' required) from the front (north and south) property lines and setback a minimum of 15' (33.2' required) from the side street (west) property line.
- (6) Applicant is requesting to permit a lot coverage of 50.2% (40% maximum permitted).
- (7) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.17 maximum permitted).

REQUESTS #5-#7 ON PLAN "B"

AND WITH EITHER GROUP OF REQUESTS, THE FOLLOWING:

- (8) Applicant is requesting to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08 and "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'B'," as prepared by

Tapia-Ruano Architect, Inc., consisting of 16 sheets and dated stamped received 12/1/08. Plans may be modified at public hearing.

SUBJECT PROPERTY: The west 112' of Tract 2, of AMENDED PLAT OF BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19, less the north 15' and less all that part of Tract 2 which lies within the external area formed by a 25' radius arc concave to the southeast tangent of the west line of said Tract 2, and tangent to the south line of the north 15' of said Tract 2. **AND: PARCEL 1:** All of QUECK SUBDIVISION (A resubdivision of the south 110' of the east 100' of Tract 2, of the AMENDED PLAT OF BIRD ROAD ESTATES, SECTION 2, Plat book 33, Page 19), Plat book 66, Page 85, being the same property described in the warranty deed recorded under Clerk's File No. 77R-279948 in Official Records Book 9855, Page 1509. **AND: PARCEL 2:** The east 50' of the west 162' of the south 110' of Tract Two, of BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19. **AND PARCEL 3:** The east 50' of the west 212' of the south 110' of Tract 2, of BIRD ROAD ESTATES AMENDED, SECTION TWO, Plat book 33, Page 19.

LOCATION: Lying east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant requested that resolution CZAB12-15-09 be vacated, and at which time the applicant requested permission to withdraw the requests to permit a proposed eleven story building setback 20' from the front (north and south) property lines and setback a minimum of 15' from the side street (west) property line (Item #2), to permit a lot coverage of 49.9% (Item #3), to permit a floor area ratio (F.A.R.) of 1.50 (Item #4), to permit a proposed eight story building setback 20' from the front (north and south) property lines and setback a minimum of 15' from the side street (west) property line (Item #5), to permit a lot coverage of 50.2% (Item #6), to permit a floor area ratio (F.A.R.) of 1.50 (Item #7), and to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property (Item #8), and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. **Site Plan.** That prior to the issuance of a building permit for the redevelopment, expansion or change of existing use of the existing commercial building located at 4001 SW 72 Avenue, existing single-family residence located at 7185 SW 41 Street and single family residence located at 7161 SW 41 Street the Owner shall submit to the Department an application for an Administrative Site Plan review (ASPR) in accordance with Section 33-251.5 of the Code of Miami-Dade County (the "Code") under a unified site plan and zoning legend, except that no ASPR shall be required prior to the issuance of a building permit(s) in connection with the repair or continued use of the aforementioned existing commercial building and two single-family residence structures on the Property as allowed under the Zoning Code for legally non-conforming structures. Any plans submitted with the ASPR application in accordance with Section 33-251.5 of the Code of Miami-Dade County for the redevelopment, expansion or change of use of the entire Property under a unified site plan and zoning legend shall include the following:
 - a) That openings on the exterior facades of any parking garage, except openings designed to provide vehicular and pedestrian ingress and egress, be outfitted with an architectural mesh or grill screening material. Said screening material and design scheme shall be submitted to and meet the approval of the Director.
 - b) That Street trees along the rear (south) property line shall be 18-feet in height at the time of planting.
 - c) That all outdoor lighting fixtures shall be located, oriented, adjusted and shielded such that the lighting is deflected, shaded and focused away from adjacent property in accordance with Section 33-4.1 of the Code.
2. **Prohibited and Restricted Uses.** That Notwithstanding the approval of the Application, the following uses shall be prohibited on the Property:
 - a) Liquor package stores, as would otherwise be permitted by Section 33-247 (31) of the Code;
 - b) Private Clubs, as would otherwise be permitted by Section 33-247 (35) of the Code of Miami-Dade County (the "Code");
 - c) Pubs and bars, as would otherwise be permitted by Section 33-247 (37) of the Code.

In addition, no portion of the premises within the proposed building (regardless of the percentage of total floor area), even if screened to keep such area from the clear view of minors, may be used for the display, sale or rental of videotapes, printed matter, pictures, films, graphic or other materials, which activities require the exclusion of minors pursuant to Chapter 847, Florida Statutes.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, after reviewing the record and decision of Community Zoning Appeals Board 12 and after having given an opportunity for interested parties to be heard, it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. and that the appeal should be approved and the decision of Community Zoning Appeals Board 12 should be overruled, and that resolution CZAB12-15-09 should be vacated, and

WHEREAS it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the requested district boundary change on modified basis to BU-1A on the entire property in lieu of the Requested BU-2 (Item #1) would be consistent with the Comprehensive Development Master Plan, and would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the proffered Declaration of Restrictions should be accepted, and that the request to withdraw Items #2 through 8 should be granted, and

WHEREAS, a motion to grant the appeal and overrule the decision of Community Zoning Appeals Board 12, vacate CZAB12-15-09, accept the proffered Declaration of Restrictions, approve Item #1 on a modified basis, and withdraw Items #2 through 8 was offered by Commissioner Carlos A. Gimenez, seconded by Commissioner Rebecca Sosa, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	aye	Joe A. Martinez	aye
Jose "Pepe" Diaz	absent	Dorrin D. Rolle	absent
Audrey M. Edmonson	aye	Natacha Seijas	absent
Carlos A. Gimenez	aye	Katy Sorenson	aye
Sally A. Heyman	aye	Rebecca Sosa	aye
Barbara J. Jordan	aye	Sen. Javier D. Souto	absent
Dennis C. Moss		aye	

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby approved, and that the decision of Community Zoning Appeals Board 12 is overruled, and that resolution CZAB12-15-09 is hereby vacated.

BE IT FURTHER RESOLVED that the requested district boundary change on a modified basis to BU-1A on the entire property in lieu of the Requested BU-2 (Item #1) be and the same is hereby approved and said property is hereby zoned accordingly.

BE IT FURTHER RESOLVED that the request to withdraw Items #2 through 8 be and the same is hereby granted and said Items is hereby withdrawn without prejudice.

BE IT FURTHER RESOLVED that Resolution No. CZAB12-15-09 is hereby null and void.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 28th day of January, 2010, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 08-9-CZ12-1

ej

**HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida**

By DIANE GULLING

Deputy Clerk

**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY
COMMISSIONERS ON THE 18TH DAY OF FEBRUARY, 2010.**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-1-10 adopted by said Board of County Commissioners at its meeting held on the 28th day of January, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 18th day of February 18, 2010.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL





Carlos Alvarez, Mayor

ADA Coordination
Agenda Coordination
Animal Services
Art in Public Places
Audit and Management Services
Aviation
Building
Building Code Compliance
Business Development
Capital Improvements
Citizens' Independent Transportation Trust
Commission on Ethics and Public Trust
Communications
Community Action Agency
Community & Economic Development
Community Relations
Consumer Services
Corrections & Rehabilitation
Cultural Affairs
Elections
Emergency Management
Employee Relations
Empowerment Trust
Enterprise Technology Services
Environmental Resources Management
Fair Employment Practices
Finance
Fire Rescue
General Services Administration
Government Information Center
Historic Preservation
Homeless Trust
Housing Agency
Housing Finance Authority
Human Services
Independent Review Panel
International Trade Consortium
Juvenile Services
Medical Examiner
Metro-Miami Action Plan
Metropolitan Planning Organization
Park and Recreation
Planning and Zoning
Police
Procurement Management
Property Appraisal
Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer

February 18, 2010

B & F Marine, Inc.
c/o Alberto Torres
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

Re: Hearing No. 08-9-CZ12-1
Location: Lying east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street, Miami-Dade County, Florida

miamidade.gov

Dear Applicant:

Enclosed herewith is Resolution No. Z-1-10, adopted by the Board of County Commissioners, which granted your appeal, overturned the decision of Community Zoning Appeals Board 12, vacated resolution CZAB12-15-09, **accepted your Declaration of Restrictions, approved your request for a district boundary change** on modified basis to BU-1A on the entire property in lieu of the Requested BU-2 (Item #1), and withdrew Items # 2 through 8 on the above described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If, as stipulated in the resolution, building permits and/or use, occupancy or completion certificates will be required, note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution. If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **February 18, 2010**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

R. A. Cuevas, Jr.,
County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,

Earl Jones
Deputy Clerk

Enclosure

Delivering Excellence Every Day